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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,337	08/03/2001	John Blair	366.04	8212
7590 03/17/2008 DERGOSITS & NOAH LLP GEOFFREY T. STANIFORD Four Embarcadero Center suite 1150 San Francisco, CA 94111				
EXAMINER WINTER, JOHN M				
ART UNIT 3621		PAPER NUMBER		
MAIL DATE 03/17/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/922,337

**Applicant(s)**

BLAIR ET AL.

**Examiner**

JOHN M. WINTER

**Art Unit**

3621

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10, 11, 36 and 41-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10, 11, 36 and 41-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Acknowledgements***

The Applicants amendment filed on November 16, 2007 is hereby acknowledged, Claims 10, 11, 36 and 41-61 remain pending. Applicant's arguments, with respect to the rejection(s) of claim(s) 10, 11, 36 and 41-61 under O'Toole, Jr. et al. (US Patent 6,279,112) in view of Archibald et al (US Patent 5,825,883) and further in view of Heindel et al.(US Patent 6,304,857) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of O'Toole, Jr. et al. (US Patent 6,279,112) in view of Archibald et al (US Patent 5,825,883) and further in view of Heindel et al.(US Patent 6,304,857) and further in view of *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 11, 36 and 41-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Toole, Jr. et al. (US Patent 6,279,112) in view of Archibald et al (US Patent 5,825,883) and further in view of Heindel et al.(US Patent 6,304,857) *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

As per claim 10,

O'Toole, Jr. et al. ('112) discloses a method for transmitting content data over a computer network comprising

providing a first interface to a publisher to define content data objects;  
providing a second interface to a user of a client computer to select content data objects from the publisher;(Figure 2)

O'Toole, Jr. et al. ('112) does not explicitly disclose processing the content data objects that were selected for transmission according to a -format requested by the user and aggregating the content data objects that were selected from one or more of the plurality in response to the a request from the user. Archibald et al ('883), discloses processing the content data objects that were selected for transmission according to a -format requested by the user and aggregating the content data objects that were selected from one or more of the plurality in response to the a request from the user. (Figure 1, column 3, lines 56-67); it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the O'Toole, Jr. et al. With the Archibald et al ('883) method in order to allow the merchant to realize a profit from the transaction.

O'Toole, Jr. et al. ('112) does not explicitly disclose providing a switching network to transmit the content data objects that were selected from the publisher to the user upon request from the user; and for causing transfer of a portion of a payment from the user to each of the publishers the content data objects that were selected, Heindel et al. ('857), discloses providing a switching network to transmit the content data objects that were selected from the publisher to

the user upon request from the user; and for causing transfer of a portion of a payment from the user to each of the publishers the content data objects that were selected, (Column 8, lines 10-39); it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the O'toole, Jr. et al. with the Heindel et al. ('857) method in order to allow the merchant to offload the cost of processing billing transactions.

O'Toole, Jr. et al. ('112) discloses the claimed invention except for "providing a third interface to and the user to select payment terms and conditions for the transmission of the content data objects that were selected from the publisher to the user", It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a third interface, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Claims 11, 36 and 41-61 are not patentably distinct from claim 10 and are rejected for at least the same reasons.

#### ***Response to Arguments***

The Applicant's arguments entered on November 28, 2007 have been fully considered. The Examiner would like to request an interview with the applicant. The Examiner states that the amended feature of "a third interface" merely constitutes a repetition of a part and does not have patentable merit.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Winter whose telephone number is (571) 272-6713. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John Winter

Patent Examiner -- 3621

/Jalatee Worjlloh/  
Primary Examiner, Art Unit 3621